

FORM 26. Docketing Statement

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July 2020

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

DOCKETING STATEMENT

Case Number: 24-1072, -1125

Short Case Caption: Rex Medical, L.P. v. Intuitive Surgical, Inc.

Filing Party/Entity: Intuitive Surgical, Inc.; Intuitive Surgical Operations, Inc.; Intuitive Surgical Holdings, LLC

Instructions: Complete each section or check the box if a section is intentionally blank or not applicable. Attach additional pages as needed. Refer to the court's Mediation Guidelines for filing requirements. An amended docketing statement is required for each new appeal or cross-appeal consolidated after first filing.

Case Origin	Originating Number	Type of Case
D. Del.	1:19-cv-00005-MN	Patent Infringement

Relief sought on appeal: ☐ None/Not Applicable

Reversal of the final judgment as to infringement and validity or affirmance of the judgment as to nominal damages.

Relief awarded below (if damages, specify): ☐ None/Not Applicable

The district court awarded Rex Medical nominal damages in the amount of \$1.

Briefly describe the judgment/order appealed from:

On September 20, 2023, the district court entered final judgment holding that Rex Medical's U.S. Patent No. 9,439,650 is infringed and not invalid and that Rex Medical is entitled only to nominal damages in the amount of \$1.

Nature of judgment (select one):

Date of judgment: 9/20/23

☒ Final Judgment, 28 USC § 1295

☐ Rule 54(b)

☐ Interlocutory Order (specify type) _____

☐ Other (explain) _____

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Name and docket number of any related cases pending before this court, and the name of the writing judge if an opinion was issued. ☒ None/Not Applicable

No related cases are currently pending. An appeal of a related inter partes review challenged involving the same parties was previously docketed as 2021-1862 and terminated by a Rule 36 summary affirmance.

Issues to be raised on appeal: ☐ None/Not Applicable

Whether the judgment that claim 6 of the '650 patent is infringed and not invalid is legally proper and supported by substantial evidence, and whether the district court properly remitted the jury's damages award to \$1 based on Rex Medical's failure to prove damages.

Have there been discussions with other parties relating to settlement of this case?

☒ Yes ☐ No

If "yes," when were the last such discussions?

- ☐ Before the case was filed below
☒ During the pendency of the case below
☐ Following the judgment/order appealed from

If "yes," were the settlement discussions mediated? ☐ Yes ☒ No

If they were mediated, by whom?

Do you believe that this case may be amenable to mediation? ☐ Yes ☒ No

Explain.

In light of previous settlement discussions between the parties, appellees/cross-appellants do not believe that mediation is likely to resolve this case.

Provide any other information relevant to the inclusion of this case in the court's mediation program.

Date: 11/7/23 Signature: /s/ Melanie L. Bostwick
Name: Melanie L. Bostwick